

(2004) 01 MAD CK 0013

Madras High Court

Case No: Writ Petition No. 19019 of 1996

K.M. Sankaran

APPELLANT

Vs

The District Collector and
Another

RESPONDENT

Date of Decision: Jan. 30, 2004

Acts Referred:

- Contract Act, 1872 - Section 229

Citation: (2004) 2 BC 504 : (2004) 2 CTC 101

Hon'ble Judges: A.S. Venkatachalamoorthy, J

Bench: Single Bench

Advocate: Sathish Parasaran, for the Appellant; R. Vijaykumar, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

A.S. Venkatachalamoorthy, J.

O.S. Sajeevan and M. Balasundaram took five arrack shops on lease in Mettupalayam Taluk during 1984-

85. They appointed the petitioner as Power of Attorney agent. As a Power of Attorney agent, the petitioner was authorised to run the shops and

also take all such actions necessary for that purpose including instituting proceedings in a Court of law against the Government to recover amounts

due if any. It appears there was some default on the part of the licensees and according to the respondents, a sum of Rs. 4,48,722 is payable to

them. The respondents, by notice dated 12.9.1996, called upon the petitioner to make good the payment. The petitioner, through his counsel, sent

a reply to the effect that he being only a Power of Attorney agent, cannot be made personally liable. But even thereafter, a second notice dated

5.11.1996 was sent by the respondents to the petitioner. In the said notice, the respondents have stated that the explanation given by the petitioner

through his lawyer cannot be accepted and that if the petitioner fails to pay the said amount, further action would be taken against him to recover

the said amount. The said notice is under challenge in this writ petition.

2. A detailed counter has been filed by the respondents wherein they have contended that since the petitioner had acted as Power of Attorney

agent and (i) run the arrack shops (ii) operated bank accounts and (iii) represented in Court proceedings on behalf of the principals as per the

power conferred, the plea of the petitioner that the amounts due to the respondents can be demanded only from the auction purchasers and not

against him, cannot be accepted. According to the respondents, the petitioner is responsible for settling the Government dues if any demanded in

respect of the above arrack shops since he was a Power of Attorney agent.

3. The fact that the petitioner was only a Power of Attorney agent of the said Sajeewan and M. Balasundaram is not in dispute. Under the Power

of Attorney, the petitioner was authorised to manage the affairs of the shops operate bank accounts and represent them in the proceedings before

the Court It is elementary that a power of attorney acts only on behalf of the principals and no personal liability can be fastened upon him/her. That

being so, simply because the petitioner acted as a power of attorney he cannot be made liable personally. It is only unfortunate that such a frivolous

notice was sent to the petitioner and in the counter affidavit filed by the first respondent, he has taken a stand that since the petitioner had acted as

Power of Attorney, the responsibility of settling the dues from the principal, lies on him. This Court is of the considered view that interests of justice

would demand directing the respondents to pay costs of Rs. 2,000 to the petitioner within two months from the date of receipt of the copy of this

order.

4. The writ petition is allowed.